

**MINUTES  
URBAN COUNTY PLANNING COMMISSION  
SUBDIVISION ITEMS**

**September 12, 2013**

- I. CALL TO ORDER** - The meeting was called to order at 1:34 p.m. in the Council Chamber, 2<sup>nd</sup> Floor LFUCG Government Center, 200 East Main Street, Lexington, Kentucky.

Planning Commission members present - Mike Owens, Chair; Eunice Beatty; Will Berkley; Mike Cravens; David Drake; Karen Mundy; Carolyn Plumlee; Bill Wilson (departed at 4:10 p.m.); Carla Blanton and Frank Penn. Patrick Brewer was absent.

Planning staff members present - Chris King, Director; Bill Sallee; Barbara Rackers; Traci Wade; Tom Martin; David Jarman; Kelly Hunter; Cheryl Gallt and Denise Bullock. Other staff members in attendance were: Hillard Newman, Division of Engineering; Captain Charles Bowen and Lieutenant Greg Lengal, Division of Fire and Emergency Services; Casey Kaucher, Division of Traffic Engineering and Tracy Jones, Department of Law.

- II. APPROVAL OF MINUTES** – The Chair reminded the Commission members that the minutes of the June 27, 2013 and July 25, 2013, meetings were previously emailed to the Commission for their review; and if there were no changes, those minutes were ready to be considered at that time.

Action - A motion was made by Mr. Penn, seconded by Ms. Plumlee and carried 10-0 (Brewer absent) to approve the minutes of the June 27, 2013 and July 25, 2013, meetings.

- III. POSTPONEMENTS OR WITHDRAWALS** – Requests for postponement and withdrawal will be considered at this time.

1. PLAN 2013-99F: WILLOW GLEN, UNIT 4 (AMD) (11/3/13)\* - located at 216 Old Mt. Tabor Road.  
(Council District 5) **(EA Partners)**

Note: The purpose of this amendment is to revise the plat restrictions for access to Mt. Tabor Road.

The Subdivision Committee Recommended: **Postponement**. There were some questions regarding the access to Mt. Tabor Road.

Should this plan be approved, the following conditions should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
8. Addition of existing 5' wall and maintenance easement, or revise purpose of amendment note.
9. Discuss note #7.
10. Discuss access.

Representation – Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of PLAN 2013-99F: WILLOW GLEN, UNIT 4 (AMD) to the September 26, 2013, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Ms. Plumlee, seconded by Ms. Mundy and carried 10-0 (Brewer absent) to postpone PLAN 2013-99F: WILLOW GLEN, UNIT 4 (AMD) to the September 26, 2013, Planning Commission meeting.

2. DP 2013-80: ELLERSLIE PLACE, LOTS 2 & 2A (MIDLAND CROSSING) (AMD) (11/26/13)\* - located at 222 Midland Avenue and 225 Walton Avenue. (Council District 3) **(Milestone Design Group, Inc.)**

Note: The purpose of this amendment is to revise the site for proposed apartments on Lot 2 and the combination of apartments vs. commercial on Lot 2A.

The Subdivision Committee Recommended: **Postponement**. There were questions regarding the notification of the nearby neighborhood associations and compliance with Art. 28-6 of the Zoning Ordinances.

Should this plan be approved, the following conditions should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.

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2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
7. Division of Waste Management's approval of refuse collection locations.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Correct plan title to read "Ellerslie Place, Lots 2 & 2A (Midland Crossing) (AMD)".
10. Addition of record plat designation.
11. Denote cross-sections for new street/access easements.
12. Dimension proposed townhouse buildings.
13. Denote width of parking spaces.
14. Denote number of bedrooms per unit.
15. Revise note #14.
16. Correct garage parking in site statistics (56 vs. 65).
17. Review by Technical Committee prior to plan certification.
18. Discuss proposed building on Lot 2A conflict with 15' and 25' easements.
19. Discuss status of preliminary subdivision plan and required information under the Land Subdivision Regulations.
20. Discuss compliance with Art. 28-6 provisions.
21. Discuss whether access easements/streets are to be public or private.
22. Discuss timing of new mixed-use building versus new townhouse development.

Representation – Brian Hanna, applicant, was present, and requested postponement of DP 2013-80: ELLERSLIE PLACE, LOTS 2 & 2A (MIDLAND CROSSING) (AMD) to the September 26, 2013, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Cravens, seconded by Ms. Mundy and carried 10-0 (Brewer absent) to postpone DP 2013-80: ELLERSLIE PLACE, LOTS 2 & 2A (MIDLAND CROSSING) (AMD) to the September 26, 2013, Planning Commission meeting.

3. DP 2013-74: GLEN CREEK (DOVE CREEK) (AMD) (11/3/13)\* - located at 1145 & 1156 Appian Crossing Way. (Council District 8) **(Rob Sims)**

Note: The purpose of this amendment is to delete townhouses and add four apartment buildings.

The Subdivision Committee Recommended: **Postponement.** There are concerns with the proposed circulation and access, given the substandard conditions of Jones Trail.

Should this plan be approved, the following conditions should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
12. Addition of name and address of developer in title block.
13. Denote record plat designation.
14. Dimension proposed driveway/access point to Jones Trail.
15. Dimension proposed walkways.
16. Addition of street cross-section for Jones Trail.
17. Dimension apartment buildings and clubhouse.
18. Denote height of new buildings in feet.
19. Complete site statistics for buildable and floor area.
20. Remove from chart "areas of individual lots" that are being deleted from plan.
21. Delete miscellaneous lot information.
22. Delete note #13 (redundant).

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23. Resolve timing of water line easement release to remove conflict with proposed building.
24. Delete Unit 3 typical townhouse information.
25. Discuss improvements to Jones Trail.
26. Discuss note #16.
27. Discuss possible need for a tree preservation area along Jones Trail.
28. Discuss continued use of pedestrian/emergency vehicle access as a vehicular access by area residents.
29. Discuss landscape buffer adjacent to parking and compactor along northern property line.
30. Discuss apartment access proposed through townhouse (H.O.A.) access easements.

Staff Comments – Mr. Martin said that the staff had received an email correspondence from the applicant, requesting postponement of DP 2013-74: GLEN CREEK (DOVE CREEK) (AMD) to the October 10, 2013, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Ms. Plumlee, seconded by Ms. Mundy and carried 10-0 (Brewer absent) to postpone DP 2013-74: GLEN CREEK (DOVE CREEK) (AMD) to the October 10, 2013, Planning Commission meeting.

- IV. LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, September 5, 2013, at 8:30 a.m. The meeting was attended by Commission members: Mike Owens, Carolyn Plumlee, Frank Penn, Will Berkley and Karen Mundy. Committee members in attendance were: Hillard Newman, Division of Engineering; and Casey Kaucher, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Tom Martin, Cheryl Gallt, Dave Jarman, Kelly Hunter, Scott Thompson, Denice Bullock and Joey David, as well as Captain Charles Bowen & Lieutenant Greg Lengal, Division of Fire & Emergency Services; Craig Prather, Division of Sanitary Sewers and Tracy Jones, Department of Law. The Committee made recommendations on plans as noted.

#### General Notes

*The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.*

1. *All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.*
2. *All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.*

- A. CONSENT AGENDA - NO DISCUSSION ITEMS** – Following requests for postponement or withdrawal, items requiring no discussion will be considered.

Criteria:

- (1) the Subdivision Committee recommendation is for approval, as listed on this agenda; and
- (2) the Petitioner is in agreement with the Subdivision Committee recommendation and the conditions listed on the agenda; and
- (3) no discussion of the item is desired by the Commission; and
- (4) no person present at this meeting objects to the Commission acting on the matter without discussion; and
- (5) the matter does not involve a waiver of the Land Subdivision Regulations.

Requests can be made to remove items from the Consent Agenda:

- (1) due to prior postponements and withdrawals,
- (2) from the Planning Commission,
- (3) from the audience, and
- (4) from Petitioners and their representatives.

At this time, the Chair requested that the Consent Agenda items be reviewed. Mr. Sallee identified the following items appearing on the Consent Agenda, and oriented the Commission to the location of these items on the regular Meeting Agenda. He noted that the Subdivision Committee had recommended conditional approval of these items. (A copy of the Consent Agenda is attached as an appendix to these minutes).

- a. PLAN 2013-95F: SOUTH BROADWAY PLACE, PHASE 3, LOT 1 (AMD) (CARL B. WHITE PROPERTY)  
(11/3/13)\* - located at 1000 Export Street. (Council District 3) **(Endris Engineering)**

Note: The purpose of this amendment is to reduce the building line, to release an easement and to reduce the width of a landscape buffer easement.

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.

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5. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
6. Addition of general notes from the previous plat.
7. Clarify street cross-sections.
8. Denote compliance with Article 8 of the Zoning Ordinance.
9. Denote compliance with required Article 18 adjacent to R-4 zone and railroad, prior to certification.

- b. PLAN 2013-96F: HILLENMEYER PROPERTY – WEST & GREENDALE HILLS, UNIT 2 (11/3/13)\* - located at 2801 Sandersville Road. (Council District 2) **(Hall-Harmon)**

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and minimum flood elevations.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
8. Denote flood protection elevation for Lots 18 and 19 with an asterisk.
9. Correct easement at rear of Lot 20 to read "15' U.E."
10. Correct plan title to read "Hillenmeyer Property-West & Greendale Hills, Unit 2."

- c. PLAN 2013-97F: MASTERSON HILLS, UNIT 1-B (11/3/13)\* - located at 3000 Spurr Road. (Council District 2) **(EA Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Greenspace Planner's approval of the treatment of greenways and greenspace.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Clarify status and maintenance of Lot 5.
10. Provide flood protection elevation note to the approval of Division of Engineering.
11. Resolve ADA compliant access to Lot 5 to the approval of Traffic Engineering.
12. Indicate driveway location on corner lots to the approval of Traffic Engineering.

- d. PLAN 2013-106F: SOUTH BROADWAY PLACE, LOT 3 (AMD #2) (11/26/13)\* - located at 201 Simpson Avenue. (Council District 3) **(EA Partners)**

Note: The purpose of this amendment is to subdivide one lot into two lots.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. List private utilities provided.
8. Addition of owner/developer information.
9. Denote location of nearest survey monument.
10. Correct spelling of "Norfolk Southern Railroad."
11. Addition of note for maintaining drainage and/or other easements.
12. Review by Technical Committee prior to plan certification.

- e. DP 2013-72: MILLER-BIRD COMMERCIAL, LOT 1-A & OLDSTOWN VILLAGE SUBDIVISION, UNIT 2 (11/3/13)\* - located at 161 Moore Drive and 2699 Regency Road. (Council District 10) **(EA Partners)**

Note: The purpose of this amendment is to add access to Regency Road and to add parking.

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The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
  2. Urban County Traffic Engineer's approval of street cross-sections and access.
  3. Building Inspection's approval of landscaping and landscape buffers.
  4. Addressing Office's approval of street names and addresses.
  5. Urban Forester's approval of tree preservation plan.
  6. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
  7. Division of Waste Management's approval of refuse collection locations.
  8. Denote the required 20' building line.
  9. Denote existing easements from final record plat.
  10. Document compliance with interior landscaping and tree canopy requirements.
  11. Denote height of building in feet.
  12. Clarify required off-street parking statistics.
  13. Resolve impact on stormwater management due to additional parking proposed.
  14. Resolve proposed access to Regency Road.
- f. DP 2013-79: INTERSTATE REALTY, LOT 1 (AMD) (11/26/13)\* - located at 833-837 Lane Allen and 1910 Garden Springs Drive. (Council District 11) **(Barrett Partners)**

Note: The purpose of this amendment is to increase the buildable area and add parking.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Denote construction access.
11. Denote cross-sections through streets on face of plan.
12. Denote height of building in feet.
13. Clarify existing vs. new building square footage proposed.
14. Verify removal or status of underground waste oil tank and gas storage tank identified on previous development plan.
15. Complete dimensions on Lot 1 building.
16. Revise purpose of amendment note.
17. Review by Technical Committee prior to plan certification.

In conclusion, Mr. Sallee said that the items identified on the Consent Agenda could be considered for conditional approval at this time by the Commission, unless there was a request for an item to be removed from consideration by a member of the Commission or the audience to permit discussion.

Consent Agenda Discussion – The Chair asked if anyone in the audience or on the Commission desired further discussion of any of the items listed on the Consent Agenda. There was no response.

Action - A motion was made by Ms. Plumlee, seconded by Ms. Mundy and carried 10-0 (Brewer absent) to approve the items listed on the Consent Agenda.

- B. PERFORMANCE BONDS AND LETTERS OF CREDIT** – Any bonds or letters of credit requiring Commission action will be considered at this time. The Division of Engineering will report at the meeting.

Action - A motion was made by Ms. Beatty, seconded by Mr. Cravens, and carried 10-0 (Brewer absent) to approve the release and call of bonds as detailed in the memorandum dated September 12, 2013, from Barry Brock, Division of Engineering.

- C. DISCUSSION ITEMS** – Following requests for postponement, withdrawal and no discussion items, the remaining items will be considered.

The procedure for these hearings is as follows:

- Staff Report(s), including subcommittee reports (30 minute maximum)

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- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
  - (a) proponents (10 minute maximum OR 3 minutes each)
  - (b) objectors (30 minute maximum OR 3 minutes each)
- Rebuttal & Closing Statements
  - (a) petitioner's comments (5 minute maximum)
  - (b) citizen objectors (5 minute maximum)
  - (c) staff comments (5 minute maximum)
- Commission discusses and/or votes on the plan.

**Note:** Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the meeting. The Chair will announce his/her decision at the outset of the hearing.

## 1. FINAL SUBDIVISION PLANS

- a. PLAN 2013-98F: MASTERSON HILLS, UNIT 1-C (11/3/13)\* - located at 3000 Spurr Road.  
(Council District 2) **(EA Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Greenspace Planner's approval of the treatment of greenways and greenspace.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Provide flood protection elevation note to the approval of the Division of Engineering.
10. Denote "3' drainage easement maintenance responsibility for 10' cemetery lot proposed."
11. Indicate driveway location on corner lots to the approval of Traffic Engineering.
12. Discuss whether or not cemetery lot should be included in this unit.
13. Discuss side yards for Lots 107 & 108.

Staff Presentation – Directing the Commission's attention to a rendering of this plan, Mr. Martin presented the final record plat for PLAN 2013-98F: MASTERSON HILLS, UNIT 1-C, and noted that this request is associated with PLAN 2013-97F, which was listed on the Consent Agenda and was previously approved by the Commission.

Mr. Martin oriented the Commission to the location of the subject property, and said that Unit 1-C is located on Our Tibbs Trail, which is just off Wigginton Point, near Sandersville Road. He then directed the Commission's attention to the previously approved preliminary development plan, and briefly explained the overall area of Unit 1-B and Unit 1C and their relationship to the nearby collector street system. He said that subject property is zoned R-3, and the applicant is proposing 35 single family lots, which is consistent with the surrounding development in this area.

Mr. Martin said that the Subdivision Committee had recommended approval of this request, subject to the conditions listed on today's agenda. He directed the Commission's attention to the list of conditions, and briefly explained that conditions #1 through #8 are standard sign-off requirements from the different divisions of the LFUCG. He said that the remaining conditions are "clean-up" items, with the exception of conditions #12 and #13. Mr. Martin said that, at the Technical Committee meeting, there was a brief discussion concerning some driveway locations. The Committee felt it was important for these corner lots to have adequate spacing from the intersection (condition #11). He then said that another concern that the Committee raised was the protection of the cemetery that is located at the rear of this development, including the access. On a previous development plan, there were townhouses being proposed toward the southeast of this area, but with the discovery of the cemetery, the townhouse layout had to be reconfigured around the cemetery.

Mr. Martin directed the Commission's attention to the staff exhibit of the cemetery, shown on the overhead, and said that the staff is recommending that the lot for the cemetery be added to this plat; furthermore, Art. 3-7 of the Zoning Ordinance should be applied to ensure that the cemetery is protected. He noted that, in the past, when a cemetery has been identified, the staff has requested that a cemetery be protected with fencing, a 50' buffer and landscaping, as well as provisions of access to the site. He said that, for this plat, the staff is requesting the same thing, as well as for the cemetery to be included on this plat. Mr. Martin said that there is a proposed 10' access leading back to the cemetery between Lots 107 and 108, and the staff was concerned that the proposed 10' access and the 3' side yard setback leading back to the cemetery

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would feel like a cave or a canyon. Therefore, the staff is recommending that these required side yards be widened to a minimum of 5' and a maximum 4' fence height restriction be imposed on Lots 107 and 108, along the 10' cemetery access.

Mr. Martin directed the Commission's attention to a depiction on the overhead projector, of the access easement and explained that the Zoning Ordinance requires the setback to be at least 3' on each side of these units. With the 10' access easement and the height of these units, it would create a narrow-looking walkway back towards the cemetery. He then said that if the setback were widened to 5', or even 8', the walkway becomes more open. He added that the R-1C zone does require the setbacks to be 8', and this is what the staff had originally recommended to provide a nice open walkway to the cemetery.

Mr. Martin said that the staff is recommending approval of this request, changing conditions #12 and #13 to the following:

12. Addition of cemetery lot to this plat prior to certification, denoting cemetery protections required by Art. 3-7(b)(1), (2), (5), (6) & (7) of the Zoning Ordinance.
13. Denote on the plan a 5'-8' side yard setback and a 4' fence height restriction on Lots 107 and 108 adjacent to the cemetery lot, prior to certification.

Representation – Rory Kahly, EA Partners, was present, representing the applicant. He said that they are in agreement with conditions #1 through #11; but they are not necessarily in agreement with the revised condition #13. He then said that the applicant had suggested a 4' fence height restriction would be for the area along the side yards of these units adjacent to the 10' access easement. However, these lots were previously approved on the preliminary subdivision plan, and they are trying to develop these lots with certain designs and size. He explained that, by increasing the side yard setback, it would essentially reduce the size of these lots. He said that the 10' access easement is its own lot and is part of the cemetery lot. That is what is required by the Zoning Ordinance. He then said that the 3' setback for each lot would result in a total of 16' between each structure, which is what the R-1C zone calls for; and it seems to be quite sufficient for the maintenance of this area. Mr. Kahly said that this cemetery will be in the middle of a subdivision and will be maintained through the homeowners association; but making it inviting to the neighborhood kids is not what the applicant wants for this area. He then said that the 50' perimeter around the cemetery must be maintained with no disturbance, and the future property owners backing up to the cemetery would not want the neighborhood kids in the cemetery.

Mr. Kahly said that, as for condition #12, if the staff is asking for the applicant to denote the requirements on the development plan, then they are agreeable. He then said that the cemetery lot, itself, was not included on the original development plan because the implementation of the cemetery requirements had not been done. He added that there are a few headstones and trees in the middle of a field, and the landscaping and fencing requirements had not been planned to start with this side of the development. He said that they are fine with denoting that these activities have to take place, but not necessarily for those activities to be installed at this time.

Mr. Kahly concluded his presentation by saying that if condition #12 is to denote the installation of the cemetery protection measures, then they would be agreeable; and as for condition #13, they are requesting a 4' fence height restriction for Lots 107 and 108 (adjacent to the cemetery access prior to certification), versus having a reduction for the entire cemetery fence line to eliminate the canyon feel from the privacy fences.

Planning Commission Questions – Mr. Penn asked if the applicant was agreeable to include the cemetery on this plat. Mr. Kahly replied affirmatively, and said that Art. 3-7 of the Zoning Ordinance could be added to the development plan for this area. He then said that the cemetery will be in the middle of 300+ lots that will be built in the future, and the applicant had not planned to install all of the cemetery protection measures at this time.

Mr. Penn then asked if the applicant is suggesting that the cemetery not be protected until it is necessary. Mr. Kahly responded by saying that those protection measure would be in place prior to certification of the plat. He indicated that they would prefer not to install the fence and the walls prior to having the plat recorded, since there are three other sections to this development.

Mr. Penn said that the access to the cemetery would be protected since it is on this plat, but the cemetery itself would not be protected. Mr. Kahly said that when this request was originally filed, the access was not shown on this plat. He then said that the access is on the same lot as the cemetery and they want to "hold back" recording that lot. He added that they are close to recordation, so they can add the access, which would be associated with the cemetery lot.

The Chair asked when the cemetery protection measures would be added. Mr. Kahly responded that they prefer that the protection measures be added with the last plat for this area, and explained that since the developer still has control over the surrounding properties, that lot would not be created until it was turned

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over to the homeowners association. The Chair said that, it seems that, if houses are adjacent to the cemetery, that cemetery needs to be protected.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Planning Commission Questions – The Chair asked for clarification to condition #13. Mr. Martin directed the Commission's attention to Art. 3-7(b)(5) of the Zoning Ordinance on the overhead projector, and said that this section of the ordinance is very specific in stating that *"Any existing cemetery fence, wall and/or gate on the subject property shall be maintained and repaired prior to any site work or disturbance on any surrounding property. Where none exists, a new permanent fence shall be erected prior to any site work or disturbance on the subject property. Such fence shall be constructed of durable and weather resistant materials (i.e., brick, stone, iron and/or steel)."* The staff would like this section of the ordinance to be placed on this plat. As for the other requirements, the staff can come to an agreement on the time frame, since there is a lot of land left to be developed. Mr. Martin said that Art. 3-7(b)(5) states that it shall be done, and the staff believes this is a reasonable request in protecting the cemetery from outside intrusions.

Mr. Berkley asked if a silt fence would be sufficient. Mr. Martin replied negatively, and said that a fence or a wall would ordinary be required. Mr. Berkley then asked if a silt fence would be required during the construction. Mr. Martin said that a silt fence would be used prior to disturbance of the land, adding that Art. 3-7(b)(1) of the Zoning Ordinance states that *"No construction or disturbance of any kind shall occur within fifty (50) feet of a cemetery boundary, regardless of property lines or ownership, except as provided herein (fence, wall, access easement or landscaping)."* He then said that the requirements in the Engineering Manual would also be utilized.

Mr. Berkley asked for clarification about the 10' access easement. Mr. Martin said that 10' is the minimum requirement to be provided. Mr. Berkley said that the applicant is proposing the minimum requirement; and the staff wants to impose more, over and above what is required. Mr. Martin said that any of the previous examples for the access easement do apply; and due to the fact that this cemetery was identified prior to development, the staff believes that, when it comes to fencing, landscaping, maintenance and access, these examples are minimal and reasonable for protecting the cemetery.

Mr. Berkley said that the frontage for these lots is only 45', and the minimum side yard requirement is 3'. He asked, if the side yard changes to 8', if this would only apply to only one side of the access. Mr. Martin said that the staff is recommending 5' to 8', and this change would apply to both sides of the access easement. Mr. Berkley then asked if this requirement would apply to both side yards for Lots 107 and 108, to which Mr. Martin said that the change would be to the area that adjoins the access easement. On the other side of these lots, the minimum 3' requirement would apply. He then said that essentially the buildable area would be reduced since there would be a 3' side yard on one side, and a 5' to 8' side yard along the access easement.

Ms. Blanton asked if the 5' to 8' side yard setback is a requirement or is the staff recommending the applicant to do that distance in addition to the minimum requirement. Mr. Martin said that the ordinance requires the side yard setback to be at least 3' and the staffs recommendation for the side yard setback should be between 5' to 8'.

Mr. Drake asked if the side yard setback will be 8' on one side and 3' on the other side (for a total of 11'). With the lot being 45', this gives only 34' in width for a buildable area. Mr. Kahly said that that was correct. Mr. Drake then asked how many units would be built with this width and if that is practical. Mr. Kahly explained that usually when the lots are created, with whatever width is available, the developer likes to build the unit up to the required building setback. He said that with 40' lots in the R-3 zone, a 34' wide house is the largest those units could be built. He then said that the 34' width is standard when the lot is 40'. Mr. Drake confirmed that 34' wide houses are built. Mr. Kahly indicated yes, and said that these lots do vary between 44' and 47'. Mr. Martin said that Lot 107 is 49' wide and Lot 108 is just over 45'.

The Chair said that the staff is recommending the side yard setback to be between 5' and 8', which is 2 more feet than what is required by the Zoning Ordinance. Mr. Martin replied affirmatively.

Ms. Mundy said that Mr. Kahly had indicated that the applicant was agreeable to the 4' fence. She said that the fence would not be running the entire length of the yard, but rather the fence would only be in the back yard corner along the length of the lot. She then said that the street frontage and the access would still be open, and it would not feel like a long tunnel. She added that she is struggling with the staff's recommendation of taking 8' away for the side yard setback. Mr. Martin said that the side yard coincides with the front yard setback. Therefore, this is where the house would begin and that is where the fence would be; so the house would be there, as well, and this is part of the staff's concern.



Ms. Beatty said that the fencing for the cemetery would not preclude the developers from doing anything to develop these lots, if it is done in advance. Mr. Martin replied that she was correct, and said that it is a requirement prior to disturbance of the land. He then said that the developer can do anything that they need to do after the fence is installed. Ms. Beatty clarified that it would not interfere with what the developer needs to do thereafter. Mr. Martin directed the Commission's attention to the cemetery exhibit previously displayed, and said that there is a 50' buffer proposed around the cemetery, but the fence will be placed on the cemetery for protection.

Action - A motion was made by Mr. Cravens, seconded by Mr. Wilson to approve PLAN 2013-98F: MASTERSON HILLS, UNIT 1-C, subject to the revised conditions, as presented by the staff, changing condition #13 to the following:

13. Denote on the plan a 5' side yard setback and a 4' fence height restriction on Lots 107 and 108 adjacent to the cemetery lot, prior to certification.

Discussion of Motion – Mr. Penn asked if the motion on the floor included the cemetery being part of this request. Mr. Cravens indicated that condition #12 would remain as it is written on the staff's recommendation. Mr. Penn clarified that the access easement would be 10' with 2.5' side yard setback. Mr. Cravens replied that the setback would be 5' on each side, 20' between the houses. Mr. Penn indicated that he was in agreement.

The motion carried 10-0 (Brewer absent).

## 2. DEVELOPMENT PLANS

- a. DP 2013-61: LAKEVIEW INDUSTRIAL SUBDIVISION, UNIT 3, LOTS 1-A & 1-B (WYATT ANN PROPERTIES, LLC) (9/25/13)\* - located at 2553 and 2555 Palumbo Drive.  
(Council District 7)

(Summit Engineering)

Note: The Planning Commission postponed this plan at their August 8, 2013 and August 22, 2013, meetings.

The Subdivision Committee Recommended: Postponement. There were some questions regarding the circulation pattern and width of the access for the larger vehicles.

Should this plan be approved, the following conditions should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
6. Division of Waste Management's approval of refuse collection locations.
7. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
8. Complete bearings and distance on Lot 2-B.
9. Remove hatching on easements other than "proposed" 25' access easement.
10. Correct Commission's certification date.
11. Denote Board of Adjustment's approval on plan (from plat), including case reference number.
12. Correct note #4 to replace "storm sewers & storm water detention" with "Stormwater Management."
13. Discuss proposed circulation on the property per Technical Committee concerns.
14. Discuss stormwater detention and relevant notes from current Final Record Plat.

Staff Presentation – Directing the Commission's attention to a rendering of this plan, Ms. Gallt presented the final development plan for DP 2013-61: LAKEVIEW INDUSTRIAL SUBDIVISION, UNIT 3, LOTS 1-A & 1-B (WYATT ANN PROPERTIES, LLC), and oriented them to the location of the subject property. She noted that the property is located on Palumbo Drive between New Circle Road and Old Todds Road. She briefly explained that there is an existing building on this property, and the applicant is proposing an additional building at the front portion of the property, as well as additional parking.

Ms. Gallt said that the Subdivision Committee reviewed this request and recommended postponement, due to questions regarding the circulation pattern and width of the access for the larger vehicles. She then said that through a series of meetings with the appropriate Divisions of the LFUCG, the applicant was able to resolve the proposed vehicular circulation on the subject property, as well as the stormwater detention (conditions #13 and #10). As a result, the applicant had submitted a revised development plan to the staff addressing these issues and some of the clean-up conditions, and now the staff is recommending approval of the applicant's request, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.

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\* - Denotes date by which Commission must either approve or disapprove request.

3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
6. Division of Waste Management's approval of refuse collection locations.
7. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
- ~~8. Complete bearings and distances on Lot 2-B.~~
- ~~9. Remove hatching on easements other than "proposed" 25' access easement.~~
- ~~10. Correct Commission's certification date.~~
- ~~11. Denote Board of Adjustment's approval on plan (from plat), including case reference number.~~
8. 12. Correct note #4 to replace "storm sewers & storm water detention "with" Stormwater Management."
9. 13. ~~Discuss~~ Resolve proposed circulation on the property ~~per Technical Committee concerns to the approval of the Division of Traffic Engineering.~~
10. 14. ~~Discuss~~ Resolve stormwater detention and add relevant notes from the current Final Record Plat.

Ms. Gallt briefly explained the list of conditions, and said that conditions #1 through #7 are the standard sign-off requirements from the different divisions of the LFUCG; and the remaining conditions are "clean-up" items.

Planning Commission Question - The Chair asked if the Division of Traffic Engineering could resolve the issues with their proposed circulation. Ms. Gallt replied affirmatively.

Representation – Kyle Crager, Summit Engineering, was present representing the applicant. He said that they are in agreement with the staff's revised recommendations and requested approval.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Planning Commission Questions – Mr. Penn asked where the truck docking bays are to be located. Ms. Gallt said that the docking bay was originally proposed between the new building and the existing building. On the revised submission, the applicant has proposed a drive aisle along the side of the building, with the docking bay to be at the rear. She said that this would allow larger vehicles to enter off Palumbo Drive and travel along the side of the new building toward the docking bay, at which time the larger vehicles could then exit back toward Palumbo Drive, creating a circular pattern. She added that, as for the existing building to the rear, there are air conditioning units along the side of the existing building, so the larger vehicles can still use the same circular pattern; but the vehicles would need to turn toward the rear docking bay that is located on the northern side of the existing building. She indicated that there is sufficient room for the larger vehicles to pull forward and reverse in this area and then exit the property.

Action - A motion was made by Ms. Blanton, seconded by Mr. Wilson, and carried 10-0 (Brewer absent) to approve DP 2013-61: LAKEVIEW INDUSTRIAL SUBDIVISION, UNIT 3, LOTS 1-A & 1-B (WYATT ANN PROPERTIES, LLC), as presented by the staff.

Note: Mr. Wilson said that he serves as Chairman of the Board for Palliative Health Care, which is a subsidiary of Hospice, and he would recuse himself from this portion of the meeting.

- b. DP 2013-64: KINGSTON HALL, UNIT 2 (EAST BRIDGEFORD LAND & DEV. CO.) (AMD) (10/29/13)\* - located at 2356 Newtown Pike. (Council District 12) **(Vision Engineering)**

Note: The Planning Commission postponed this plan at their August 8, 2013 and August 22, 2013, meetings. This plan requires the posting of a sign and an affidavit of such. The purpose of this amendment is to revise the proposed building and parking area.

The Subdivision Committee Recommended: **Postponement.** The Text amendment to permit this use and lessen off-street parking has not yet been approved by the Urban County Council.

Should this plan be approved, the following conditions should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.

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\* - Denotes date by which Commission must either approve or disapprove request.

8. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
9. Division of Waste Management's approval of refuse collection locations.
10. Denote purpose of amendment.
11. Denote final record plan information on plan.
12. Denote KY Transportation Cabinet's approval of proposed right turn taper.
13. Clarify lot line and right-of-way limits on Newtown Pike frontage.
14. Delete 50' setback on Newtown Pike frontage.
15. Provided the Planning Commission makes a finding that the plan complies with the EAMP.
16. Resolve buffer (loss of tree canopy) adjacent to the Poole property.
17. Resolve location proposed for ½ cul-de-sac.

Staff Presentation – Mr. Martin identified the amended Final Development Plan for DP 2013-64: KINGSTON HALL, UNIT 2 (EAST BRIDGEFORD LAND & DEV. CO.) (AMD) on the agenda, and explained that the Planning Commission had previously approved a Final Development Plan for this site earlier in the year. Since that time, the applicant has submitted an amendment to revise the proposed building and parking area. He said that this request was initially postponed by the Planning Commission, pending the Lexington-Fayette Urban County Council's consideration of a proposed Text amendment to permit a hospice as a principal use in the ED zone. He then said that on August 29<sup>th</sup> the Lexington-Fayette Urban County Council had approved the text amendment and now the applicant is ready to move forward with this request.

Directing the Commission's attention to the rendering on display, Mr. Martin said that the amended final development plan does have similarities to the previously approved development plan. He oriented the Commission to the surrounding area and street system, and said that the subject property is located on a 16-acre tract that has direct access to Newtown Pike. He then said that the subject property is north of the interstate, Providence Place Parkway and Stanton Way, and is just south of the Urban Service Boundary. He explained that the applicant has proposed to construct a medical clinic, and a parking area, as well as provide an open space area between Newtown Pike and the Scenic Resource Area boundary. He then explained that a section of Providence Place Parkway has been constructed and dedicated, and is planned to intersect with Mary Faye Place; however, Mary Faye Place has not yet been built, but its right-of-way has been dedicated. The applicant is anticipating a future connection to that street, through a cul-de-sac, on their development plan.

Mr. Martin said that there are some differences between what the Commission had previously approved and what is being presented to the Commission today. He explained that the buildable area has increased from 55,500 square feet to 62,800 square feet, and this is due to the addition of Phase II on the development plan. He added that, since the square footage parking requirement has been reduced for a hospice land use via a recent text amendment, the parking is also being reduced on this site from over 200 required to 60 required parking spaces. He said that, with the Urban Service Boundary setback, the building layout has also been designed in a curve to keep within an average of the required 100-foot setback along the side of the property.

Mr. Martin said that the applicant did submit a revised development plan to the staff, addressing some of the "clean-up" conditions; and with that revised submittal, the staff is recommending approval of the applicant's request, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
9. Division of Waste Management's approval of refuse collection locations.
10. ~~Denote purpose of amendment~~ Revise USA buffer to match agreed upon buffer with the adjacent property owner, per Art. 23A-2(f)(4).
11. ~~Denote final record plan information on plan.~~
12. ~~Denote KY Transportation Cabinet's approval of proposed right turn taper.~~
13. ~~Clarify lot line and right-of-way limits on Newtown Pike frontage.~~
14. ~~Delete 50' setback on Newtown Pike frontage.~~
15. ~~Provided the Planning Commission makes a finding that the plan complies with the EAMP.~~
16. ~~Resolve buffer (loss of tree canopy) adjacent to the Poole property.~~
17. ~~Resolve location proposed for ½ cul-de-sac.~~

Mr. Martin briefly explained the revised list of conditions, and said that conditions #1 through #9 are the standard sign-off requirements from the different divisions of the LFUCG; and the remaining conditions are "clean-up" items. He said that the staff is requesting that the applicant revise the USA buffer to match the agreed upon buffer with the adjacent property owner. Mr. Martin then said that the Kentucky Transportation Cabinet has approved the access point proposed for this use on Newtown Pike, as well as its right turn taper. The applicant will need to denote this on the development plan prior to certification. They will also need to clarify the lot line and right-of-way along their Newtown Pike frontage.

Directing the Commission's attention to the staff's memorandum, Mr. Martin said that, as part of the applicant's request, the Planning Commission will need to make a finding that this amended development plan still complies with the EAMP. He explained that, as part of the infrastructure for this area, a portion of Providence Place Parkway has been built and dedicated, and is planned to intersect with Mary Faye Place. He said that Mary Faye Place has been dedicated, but will not be built until the adjacent (Poole) property develops. He then said that, as for the pump station planned for this area, the LFUCG has not yet built the regional pump station; and until the regional pump station is completed, the applicant will need to connect with and utilize the existing pump station that is closest to the Arby's restaurant site on Newtown Pike. He said that, with the revised final development plan, the staff believes that this request is still in compliance with the EAMP and is recommending approval.

Mr. Martin said that the only issue remaining is the loss of tree canopy between the subject site and Dr. Poole's property to the south. He then said that the applicant has stated that there are more than enough trees to meet the tree canopy requirement, but the staff wants to make sure that there are no unnecessary trees removed during site work. He said that the staff is aware of Dr. Poole's concerns, and she wants to make sure that there is appropriate screening between the two properties to shield her veterinary practice from this new land use.

Planning Commission Questions – Mr. Penn asked if the proposed cul-de-sac will not be constructed until Dr. Poole develops her property. Mr. Martin said that the applicant is showing the cul-de-sac on the final development plan, and a permit could be issued to construct a partial cul-de-sac. Mr. Penn then asked if, until Mary Faye Place is built, there is only one-way in and one-way out of the subject property on Newtown Pike, which Mr. Martin verified. Mr. Penn said that there will be 60 parking spaces on site, and asked what the total square footage is for this property. Mr. Martin replied that the square footage, in total, is 72,000 and this includes Phase II of the development.

Mr. Drake asked for clarification to the location of Providence Place relative to Newtown Pike. Mr. Martin directed the Commission's attention to the rendering and explained that Providence Place is north of the interstate, near the Urban Service Boundary.

Ms. Beatty said that, on a previous plan presented to the Commission, a rear exit was noted on the development plan; but that access would not be used as the main entrance to this site. Mr. Martin clarified that an old farm road was shown on a preliminary development plan; but as for this request, a rear access was only discussed. Ms. Beatty said that the rear access is not shown on this revision. Mr. Martin replied that it is not on this proposed plan, and said that the applicant does not control the property to the rear.

Mr. Penn asked about the previous discussion regarding the Newtown Pike access being moved further north. Mr. Martin said that, in speaking with the Division of Traffic Engineering and the Kentucky Transportation Cabinet, it was determined that the original farm road was not appropriate for the required sight distance, and the access was moved further north to provide a better sight distance. Mr. Penn expressed that that does not make sense to him.

The Chair asked what the required buffer is, as noted in condition #14. Mr. Martin said that these two properties are zoned the same; therefore, there is no required buffer between the land uses. He then said that there is a tree protection requirement on the subject property, and the applicant has stated that they do not need additional tree canopy because they are protecting the existing canopy. The staff is concerned with the potential loss in the tree canopy from site work, as well as having the appropriate buffering between the subject property and Dr. Poole's agricultural property.

Applicant's Representation – Richard Murphy, attorney, was present representing Hospice of the Bluegrass. He noted that he had entered several documents into the record that is required by the Zoning Ordinance. He said that a sign was posted on the property of the pending development plan request. He then said that he also submitted the required affidavit for the sign, as well as the associated photograph. He then said that, as required by an older development plan, notice letters were also required to be sent to Eaton Farm, Greg Goodman; Jack Burch; Mount Brilliant Farm, on behalf of the North Fayette Neighborhood Group; and Harry Scott, Jr., both of whom are on Russell Cave Road, and all of which received a notice letter. Mr. Murphy said that the Ordinance also requires the Administrators and Commissioners of the Lexington-Fayette Urban County to be notified of a pending development in the Expansion Area; and they did submit a copy of the proposed development plan, as well as the required Infrastructure and Compliance Statements

to these people. He noted that Darby Turner, who was present on behalf of Eaton Farm, was planning to observe today's meeting.

Mr. Murphy said that they first presented the final development plan for Hospice of the Bluegrass earlier this year; and since that time, they are happy to report that the Lexington-Fayette Urban County Council has approved the text amendment to allow a hospice in the ED zone as a principal use. He then said that the text amendment was passed unanimously by the urban County Council last week, and now they are presenting the final development plan to the Commission for consideration. He said that, when this proposal was first presented to the Commission, they had defined the use as a medical clinic. This type of use required the parking to be much higher than what is being proposed now. He then said that, with the text amendment approved, they can now reduce the parking requirement down to 60 spaces, which will result in less traffic in and out of the property.

Mr. Murphy said that, in June of this year, Eaton Farm and the applicant had reached an agreement regarding the landscape buffering along the property line; and they are in agreement to revise the USA buffer to match the agreed upon buffer (condition #10), as well as show those details on the final development plan. He then said that they had also spoken with Dr. Poole regarding the tree preservation area; and they are not concerned with saving dying or unhealthy trees, but they are agreeable to replace any trees that are damaged or removed. He said that they want to mirror Dr. Poole's open space area at the front of the property, while shielding and retaining the landscape buffer at the rear property.

Mr. Murphy said that, on the previous development plan, they had shown the proposed access point further down on Newtown Pike; but after the Kentucky Transportation Cabinet and the Division of Traffic Engineering had reviewed their proposal, it was determined that the existing access point provides the best sight distance along Newtown Pike. He then said that the State and the City have approved the existing driveway for use as the new access point, as well as the paved taper into this property.

Mr. Murphy said that, in reference to Mr. Penn's earlier questions, they are requesting to not construct the cul-de-sac until such time as Mary Faye Place is built. He then said that there is no reason to build a partial cul-de-sac on the subject site until there is a connection made through Dr. Poole's property. He noted that he understood that the staff is in agreement with a note being placed on the final development plan stating that the cul-de-sac will not be constructed until Mary Faye Place is constructed.

Mr. Murphy said that he appreciated the Commission reviewing their proposal, and Hospice of the Bluegrass is very excited about the prospect of coming to this location. He then said that their new facility in Hazard, Kentucky has been very well received by the patients, their families and the employees.

Planning Commission Questions – Ms. Plumlee asked if there is a timeline as to when this project will be completed. Gretchen Brown, Chief Executive Officer, for Hospice of the Bluegrass, said that the timeline for this site construction is between 3 to 5 years, adding that it will take time for items such as the fund raising feasibility or accepting requests for proposals (RFP) from architects.

Ms. Plumlee then asked if this proposal would be subject to the Capacity Assurance Program since this Expansion Area has not been grandfathered. She then said that if the current pump station is full, then this development would be placed on hold until the new pump station was built. Mr. Murphy said that, as part of their due diligence, they researched the Capacity Assurance Program before they purchased the property; and only the EA-2 areas are grandfathered in, not the EA-3 areas. He then said that they have to jump through the same hoops as everyone else who wants to develop land in this area. He added that they have checked with the Division of Water Quality; they were told that there is capacity for 96,000 gallons per day, and this facility would not even use a quarter of that amount. He said that there is more than enough capacity for when they move forward with their first phase of this development.

Mr. Penn asked if the applicant would supply a sewer line to the pump station. Mr. Murphy said that if the regional pump station has not been built, they would construct a smaller pump station on site that would connect to an existing manhole near Providence Place Parkway, which would then connect to the pump station near the McDonald's restaurant and the Interstate. He then said that the Division of Water Quality has said that the regional pump station would not be ready for another 5 years, so this connection would be done at the applicant's expense.

Mr. Penn said that there are high exaction fees associated with the adjoining property, which could slow down development. Mr. Murphy said that the subject property also has high exaction fees, and many of those fees are placed in a fund to build the regional pump station.

The Chair asked if the pump station would be built on the subject property or on the adjoining property. Mr. Murphy said that, if they construct a temporary pump station, it would be built on the subject property, not the adjoining property. He then said that the location for the regional pump station has not been determined at this point in time.

The Chair then asked how dense the landscape buffer is between the subject site and Dr. Poole's property. Ms. Brown replied that the area between the two properties is pretty dense and overgrown. She indicated that this area will be cleared out, while still retaining an adequate landscape screening between the two properties to provide a shield for the horses.

Citizen Comments – Dr. Barbara Poole, 2300 Newtown Pike, said that her property is adjacent to the proposed development, and she would like clarification on the type of landscape buffer that will be installed between the two properties. She said that, currently, there are old hardwood trees and about 40 feet of honeysuckle along the property line; and the applicant has mentioned they would be cleaning up this area. She then said that the applicant mentioned that they would not remove the trees; but by removing the honeysuckle, it will open up her property up to view the parking lot. She said that she wants clarification on the type of solid visual barrier that will be used between the two properties. Dr. Poole added that she wants the same type of agreement that was given to Mr. Eaton, so they will know exactly what will be installed or planted along the property line.

Planning Commission Questions – The Chair asked if the applicant could provide any clarification on the type of landscape buffer that will be used. Mr. Murphy said that they are perfectly willing to work this out with Dr. Poole and have it in writing. He then said that they will provide a good visual separation between the two properties, prior to certification of this development plan.

Ms. Plumlee asked if that agreement could be made as a condition. The Chair asked if it was possible to add a condition to resolve the buffer with the adjacent Poole property by mutual agreement. Mr. Sallee said that condition #14 could be changed to read "Resolve buffer (loss of tree canopy) adjacent to the Poole property to include a solid visual barrier." He then said that this change would be sufficient with what has been described between the two parties, and said that this should address the issue with the Honeysuckle or an alternate agreement between the two parties. He added that it would be the staff's expectation for this to be noted on the development plan, prior to plan certification. The Chair then asked if there is any reason to specify what type of material should be used. Mr. Sallee said that the harm in the Commission dictating the type of material to be used would be if the applicant and Dr. Poole chose something different. This would then require the development plan to be amended.

Mr. Murphy said that they are agreeable with the staff's recommendation and noted that, between the two parties, they can come up with the appropriate material. Dr. Poole indicated that she is also in agreement with the staff's recommendation. The Chair clarified that condition #14 would be changed to read "Resolve buffer (loss of tree canopy) adjacent to the Poole property to include a solid visual barrier." Mr. Sallee replied affirmatively. The Chair asked if this will include a wall of some type. Mr. Sallee replied that it would, if both parties agreed on the use of a wall.

Ms. Beatty said that, since the Commission is in agreement with the cul-de-sac not being constructed until such time as Mary Faye Place is constructed, she asked if a condition should be added to reflect this; or if it is alright with the cul-de-sac being shown on the development plan. Mr. Sallee said that, ordinarily when part of a public street is not constructed at the time of development, it would require the Commission to grant a waiver to the Land Subdivision Regulations. He then said that the applicant had requested the waiver on the previous plan, but not with this amendment. He added that, on the previous development plan, the staff was not in favor of the requested waiver. He noted that once a month there is an opportunity for an applicant to request a waiver from the Commission to the Land Subdivision Regulations; and if the applicant chooses, they can request a waiver any time while the plan moves forward. He said that one of the benefits to waiting is that more information could be known about the possible street connection of Mary Faye Place; plus, it allows time to consider bonding, which ensures that the cul-de-sac is built. Mr. Sallee said that the staff would prefer to leave the cul-de-sac on the development plan; and if the applicant chooses, they can certainly request a waiver to the Land Subdivision Regulations to postpone the construction of the cul-de-sac. He then said that, at that time, the staff would prepare the waiver report and present it to the Commission. He added that this would also give the staff the opportunity to speak with the Division of Engineering as to what bonding requirements would be needed to delay that construction.

Mr. Murphy said that his client is asking why they would need to pay their attorney at a later date only to request the waiver. He then said that his client is asking if the waiver could be granted at today's hearing. He indicated that his client does not want to build the cul-de-sac until Mary Faye Place, nor do they want to come back to the Commission for that issue down the road. He said that some developments are done in phases, and asked if the cul-de-sac could be done during a later phase of this development. Mr. Sallee said that there is a Phase II identified on the development plan, and the Commission could consider adding a 15<sup>th</sup> condition to "Denote cul-de-sac as being in Phase 2". The Chair confirmed that a 15<sup>th</sup> condition is now being considered.

Action - A motion was made by Mr. Penn, seconded by Ms. Mundy, and carried 9-0 (Wilson recused; Brewer absent) to approve DP 2013-64: KINGSTON HALL, UNIT 2 (EAST BRIDGEFORD LAND & DEV. CO.)

(AMD), subject to the revised conditions, as presented by the staff, changing condition #14 to read: "Resolve buffer (loss of tree canopy) adjacent to the Poole property to include a solid visual barrier;" adding a condition #15 to read: "Denote cul-de-sac as being in Phase 2" and noting that the finding that this plan does comply with the EAMP.

- c. DP 2013-71: THE COACH HOUSE-SOUTH BROADWAY PROPERTY (AMD) (11/3/13)\* - located at 855 South Broadway. (Council District 11) **(Commercial Site Design)**

Note: The purpose of this amendment is to redevelop Lot 1 and add a drive-through facility.

The Subdivision Committee Recommended: **Postponement**. The plan submitted does not meet the minimum requirements of Article 21-6(a) of the Zoning Ordinance, regarding the content for development plans.

Should this plan be approved, the following requirements should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
9. Division of Waste Management's approval of refuse collection locations.
10. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
11. Complete adjacent property information for Lot 2 dimensions (from previous development plan DP 2002-54).
12. Dimension pedestrian walkways and access points to South Broadway.
13. Denote construction access points proposed.
14. Addition of sidewalk dimension to street cross-section for South Broadway at identified location.
15. Addition of required site statistics, per Article 21-6(a)(13) of the Zoning Ordinance.
16. Addition of tree protection plan information.
17. Revise purpose of amendment note.
18. Discuss traffic circulation in front of building for drive-through orders.
19. Discuss existing ingress/egress easement and 25' access easement proposed.
20. Discuss access to South Broadway and need for Kentucky Transportation Cabinet approval.

Staff Presentation – Directing the Commission's attention to the rendering of this plan, Mr. Martin presented the final development plan for DP 2013-71: THE COACH HOUSE-SOUTH BROADWAY PROPERTY (AMD), and oriented them to the location of the subject property. He noted that the property is located on South Broadway adjacent to the Tattersall's development and in the general vicinity of Red Mile Road and Angliana Avenue. He briefly explained the overall area and the nearby street system, and said that access is being provided off South Broadway and through the adjacent property. He then said that the purpose of this amendment is to redevelop Lot 1 and add a drive-through facility.

Mr. Martin said that the applicant is proposing a restaurant that is a little over 5,000 sq. ft, as well as providing 61 parking spaces. He explained that the subject site has two existing access points on South Broadway, and there is a nearby service road on the adjacent property that also has access to South Broadway. He said that the staff had concerns with one of these access points because there are already multiple accesses down South Broadway. He then said that the applicant had met with the staff to discuss the issues relating to these accesses, after which the applicant had submitted a revised Development Plan that removed the southeastern access point near the Tattersall's property. The staff felt that by removing this access and making a single main entrance point, it would help with the traffic impact.

Mr. Martin explained that the applicant is proposing a dual drive-through around the building, as well as a crossover at the front of the building. This is the company's standard model that has been successfully utilized in their other locations. He said that the Division of Traffic Engineering had reviewed the applicant's model, and they do not believe there to be any issues with this design. In addition, the applicant has stated that they would modify the traffic circulation on the right side of the building from a two-way circulation to a one-way circulation. This change will help reduce potential internal problems near the front intersection.

Mr. Martin said that the Subdivision Committee reviewed the applicant's request and recommended postponement. He then said that the original plan submitted did not meet the minimum requirements of Article 21-6(a) of the Zoning Ordinance, regarding the content of the development plan. He added that the applicant had submitted a revised Development Plan addressing many of the issues previously identified

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\* - Denotes date by which Commission must either approve or disapprove request.

last week by the Subdivision Committee. The staff can now recommended approval of this development plan, subject to the following revised requirements:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
9. Division of Waste Management's approval of refuse collection locations.
10. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
11. Complete adjacent property information for Lot 2 dimensions (from previous development plan DP 2002-54).
12. Dimension pedestrian walkways and access points to South Broadway.
- ~~13. Denote construction access points proposed.~~
- ~~14. Addition of sidewalk dimension to street cross-section for South Broadway at identified location.~~
13. 15. Addition of required site statistics, per Article 21-6(a)(13) of the Zoning Ordinance.
- ~~16. Addition of tree protection plan information.~~
- ~~17. Revise purpose of amendment note.~~
14. 18. Discuss traffic circulation in front of building for Complete detail of proposed cross over drive-through orders circulation to the approval of Traffic Engineering.
15. 19. Discuss Clarify location of landscaping adjacent to existing ingress/egress easement and 25' access easement proposed.
16. 20. Discuss access to South Broadway and need for Document Kentucky Transportation Cabinet approval of access to South Broadway.

Mr. Martin briefly explained the new list of conditions, and said that conditions #1 through #10 are the standard sign-off requirements from the different divisions of the LFUCG; and the remaining conditions are "clean-up" items. He said that the applicant will need to clarify the landscaping adjacent to the existing ingress and egress easement near the Tattersall's property at the rear. He added that the applicant will need to ensure that the landscaping will not intrude onto the easement for the adjoining property (condition #15). Mr. Martin said that the applicant has added a pedestrian walkway and access from South Broadway to the subject property (condition #12). He then said that the applicant will also need to document the KY Transportation Cabinet's approval for the access to South Broadway (condition #16).

Planning Commission Question – Mr. Berkley said that the Commission had required a right-in and right-out on the adjacent property; and as part of the Newtown Pike project, Chair Avenue will also be converted to a right-in and right-out only. He asked why a right-in and right-out is not being recommended for this site. Mr. Martin said that the development plan was reviewed by the Division of Traffic Engineering and they believe the proposed access will function appropriately. He said that the Kentucky Transportation Cabinet will also have the chance to review the applicant's request as well. Mr. Saltee added that there are two existing unrestricted access points to this site, and the applicant is proposing to remove one of them.

Mr. Penn said that, eventually after this area is redeveloped, there will be access to Red Mile Road to help with the internal traffic. Mr. Martin said that access would only be provided through the Tattersall's development, not this property. Mr. Penn asked where the two accesses are being shown on Red Mile Road. Mr. Martin directed the Commission's attention to the rendering and explained that the road in question is not Red Mile Road, but a service road that serves the Waffle House and the gas station. Mr. Penn said that he was under the impression that when this area was being developed, there would be some way to relieve the traffic from South Broadway through Red Mile Road. Mr. Martin said that that was attempted several times, and one example was the proposed connection through the Red Mile multi-use plan and the motel parking lot. He then said that this is still an option, but these property owners would need to cooperate on that issue. The Chair said that he recalled a discussed on the recent Red Mile plan, and there was an issue with these property owners agreeing. He then said that this development plan does have a full access to that service road, as well as a full entrance to South Broadway.

Ms. Beatty said that this area will obviously lend itself to walking and bike traffic and asked if there will be internal sidewalks or bike racks on the site. Mr. Martin explained that the Bike and Pedestrian Planner is one of the sign-offs for this development, and the staff wanted to make sure that there is a well delineated pedestrian access to the site. He directed the Commission's attention to the rendering and explained the location of the pedestrian access in relation to the entrance of the building. He noted that, with regards to the bike racks, the applicant is not showing any on the proposed development plan or an internal connection between the subject property and the adjacent property.



Ms. Beatty said that she is concerned with the potential problems that could occur with the cross-over traffic for the double drive-through, and with the pedestrian/bike movement not being delineated on the plan. Mr. Martin said that this is a new concept for the community, which is why the applicant wants to keep the pedestrian access located near the front of the building.

Representation – Rod Heavner, with Cook Out Restaurants (future occupant of the property), was present, along with Jeremy Reaves, who is the property owner. He said that they are definitely interested in having bike racks on the property. He then said that they are in agreement with the staff's revised recommendations and requested approval.

Planning Commission Questions – Mr. Berkley asked if the right-in and right-out would pose any complications for this development. Mr. Heavner said that they had spoken with the Division of Traffic Engineering, and they believed that omitting one of the access points and having only one curb cut would be sufficient for the development, adding that this type of design will work well for their project. Mr. Berkley said that he recognizes that one of the accesses is being removed, but the main entrance is closer to another existing access on South Broadway. He asked if the main entrance were to be made a right-in and right-out only, if that would cause this project any problems. Mr. Reaves said that a right-in and right-out would not be feasible due to the overall cost of this project. He then said that a right-in and right-out would cause traffic congestions; and it would be a disaster for this development, as well as for the adjacent properties. He added that incoming and outgoing traffic may need to circle the building a few times before they are able to exit the development on to South Broadway or through the Waffle House property.

Mr. Berkley said that traffic turning left on to South Broadway will create the same problems. Mr. Reaves said that he had made a left turn on to South Broadway during lunch; and there was no issue at that time. He then said that traffic from this development can still use the Waffle House site to exit back on to the main road. He added that they had proposed to switch the full access to keep the other access a right-in and right-out, but the goal is to have less curb cuts on South Broadway. They had decided to close off one access and make the other a full access. Mr. Reaves said that they respectfully request to keep the full access due to the cost of the project. Mr. Heavner said that they have studied this area, and they believe there is sufficient room for stacking. They do not want this project to cause an issue for the community.

Mr. Penn said that the outgoing traffic will have to pull into the center lane of South Broadway, only to wait until the traffic has cleared to exit back toward town. He said that this development will be creating more traffic than the Coach House restaurant did. Mr. Heavner said that they believe having one curb cut versus two curb cuts will cut down on any traffic concerns. He then said that he did not know how the site would work if another restaurant were to use it as is. Mr. Reaves said that they believe there will be more pedestrian and bicycle movement coming into this site versus vehicular movement. He then said that they will be having bike racks on this development, and it was an oversight on their behalf that those were not shown on the recent submittal. Mr. Penn said that he is not talking about bike racks; he is talking about somebody turning left onto South Broadway trying to come downtown. The Chair said that this discussion is about safety and not the curb cuts on South Broadway. Ms. Kaucher, Division of Traffic Engineering, said that the staff has reviewed the right-in and right-out access versus the full access, and they are comfortable with the applicant's proposal. She then said that putting limitations on a right-in and right-out, the staff must consider the vehicles obeying that restriction or ignoring that restriction when traffic is slower on South Broadway. She added that, at this location, a full access would function appropriately since there is a right-turn lane into the property, two through lanes inbound and outbound, as well as a median between the two through lanes. Mr. Penn said that there is not a median on South Broadway; there is a stacking lane in the center of South Broadway. He asked how many vehicles can stack in the center lane because he does not believe vehicles can safely cross four lanes of traffic. Ms. Kaucher said that South Broadway has a two-way turn lane, and there is the potential for conflicting turning movement on South Broadway. Mr. Penn said that that is called a "suicide lane."

Mr. Berkley said that he would be in favor of having both accesses designated as a right-in and right-out, versus having a full access. He asked what makes this development different from the Tattersall's access. Ms. Kaucher said that, as far as these developments are concerned, there is not a difference; but the applicant's proposal does provide an improvement to what is currently on South Broadway. She then said that the applicant is removing one of the accesses, creating a better design for spacing between the Tattersall's development and the applicant's proposal. Mr. Martin said that one of the main differences is that the Tattersall's development is immediately adjacent to the Coach House's full access, as well as the access to Speedway on South Broadway. By removing one of these accesses, the spacing between the other access points is increased, and this is why the staff felt it was an improvement.

Ms. Blanton said that she agreed; and with all of the accesses near Angliana Avenue, it creates a big mess. She then said that with this proposal there is some spacing between the Tattersall's development and the applicant's proposal.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Planning Commission Comments – Mr. Cravens said that he believes the Division of Traffic Engineering has reviewed these accesses, and they would not recommend this design if they were not comfortable with the applicant's proposal.

Action - A motion was made by Mr. Cravens, seconded by Ms. Mundy, and carried 6-4 (Owens, Berkley, Plumlee and Penn opposed; Brewer absent) to approve DP 2013-71: THE COACH HOUSE-SOUTH BROADWAY PROPERTY (AMD), as recommended by the staff.

Note: A recess was declared by the Chair at 3:07 p.m., and the meeting re-convened at 3:15 p.m.

- d. DP 2013-73: FAYETTE MALL (AMD #12) (11/3/13)\* - located on Nicholasville Road.  
(Council District 9) **(EA Partners)**

Note: The purpose of this amendment is to revise buildable area and off-street parking.

The Subdivision Committee Recommended: **Postponement.** The parking layout proposed will impede vehicular circulation at a mall entry point.

Should this plan be approved, the following conditions should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Dimension all buildings and structures on Macy's outlot.
11. Dimension all drive aisles shown in identified "area of amendment."
12. Addition of timing of and method of decommissioning 2<sup>nd</sup> floor space (Sears).
13. Illustrate compliance with Art. 12-7(b) requirements in "area of amendment."
14. Addition of parking counts from previous development plan.
15. Clarify 72' x 72' addition (not shown) from previous development plan, and add to site statistics.
16. Document compliance with interior landscaping requirements.
17. Resolve timing of construction with removal or release of existing easements.
18. Discuss need for pedestrian access to designated transit stops.
19. Discuss whether the plan must comply with the adopted Big-Box Design Guidelines.

Staff Presentation – Directing the Commission's attention to a rendering of this plan, Mr. Martin presented the amended final development plan for DP 2013-73: FAYETTE MALL (AMD #12), and oriented them to the location of the subject property. He briefly explained the overall area and the nearby street system, and said that Fayette Mall is located along Nicholasville Road, near West Reynolds Road, and that the Norfolk Southern Railroad runs along the rear boundary, noting that some of the uses in the general vicinity include Target, the Fayette Commons Shopping Center, and the nearby theater. He said that Fayette Mall can be accessed through West Reynolds Road or Nicholasville Road, as well as connections through the Fayette Commons Shopping Center or Mall Road.

Mr. Martin said that, as everyone is aware from local news reports, Sears will be vacating Fayette Mall, as well as removing the Sears Automotive Center. The purpose of this amendment is to revise that buildable area for future retail stores and restaurants, as well as provide off-street parking. He said that, as part of this amendment, the applicant is proposing to construct a 10,000 square-foot outlot building at the corner of the Fayette Mall property, near the signalized intersection at West Reynolds Road. He said that, in terms of ground coverage, there will be a net increase with this expansion of the Mall; however, a significant portion of Sears second floor will be "decommissioned." He directed the Commission's attention to the staff exhibit, and said that the current development plan has 901,631 square feet of ground coverage and with this amendment the ground coverage will increase to 936,863 square feet in size. He then said that the total floor area of the current development plan is 1,372,920 square feet; and with this amendment, it decreases to 1,352,863 square feet in size. The partial decommissioning of the second floor of Sears, along with the expansion now proposed at the front of Fayette Mall, results in a net decrease of 20,057 square feet of floor area. He said that this change does decrease the surplus parking from the current status of 20 down to 4.

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\* - Denotes date by which Commission must either approve or disapprove request.

Mr. Martin said that the Subdivision Committee had recommended postponement of this plan because the perpendicular parking layout proposed would impede vehicular circulation at the new (Sears) Mall entry point. He then said that, since the Subdivision Committee meeting, the applicant has submitted a revised Development Plan addressing several items previously identified. He added that, with those changes, the staff can now recommend approval of the applicant's request, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
- ~~10. Dimension all buildings and structures on Macy's outlet.~~
10. 14. Dimension all drive aisles shown in identified "area of amendment."
11. 12. Addition of timing of and method of decommissioning 2<sup>nd</sup> floor space (Sears).
- ~~13. Illustrate compliance with Art. 12-7(b) requirements in "area of amendment."~~
12. 14. Addition of parking counts from previous development plan.
- ~~14. Clarify 72' x 72' addition (not shown) from previous development plan, and add to site statistics.~~
13. 16. Document compliance with interior landscaping requirements.
14. 17. Resolve timing of construction with removal or release of existing easements.
15. 18. Discuss Resolve the location of need for pedestrian access to designated transit stop(s) to the approval of the Transportation Planning section.
- ~~19. Discuss whether the plan must comply with the adopted Big-Box Design Guidelines.~~

Mr. Martin briefly explained the new list of conditions, and said that conditions #1 through #9 are the standard sign-off requirements from the different divisions of the LFUCG; and the remaining conditions are "clean-up" items. He said that the applicant will need to dimension all the drive aisles shown in the identified "area of amendment" (condition #10), as well as add the parking counts from the previous development plan (condition #11). He said that, over time, the landscaping or trees can be lost or removed; so the applicant will need to document compliance with interior landscaping requirements (condition #13).

Mr. Martin said that there are easements running throughout this property, even under the Mall itself. He explained that, when the PF Chang restaurant expanded, a plat was submitted showing which easements had to be moved. He said that the applicant will also need to do the same for this request and indicate the timing of construction with the removal or release of those existing easements (condition #14). Since some of the easements are either public or private, there are various ways for the applicant to approach this issue.

Mr. Martin then said that the staff would also like the applicant to resolve the location of the pedestrian access to designated transit stop(s) in front of the Mall, to the approval of the Transportation Planning section (condition #15). He said that there was considerable discussion among the staff, the Technical Committee, and the Subdivision Committee about how Fayette Mall does generate a lot of bus traffic, and there is a need to have a designated transit stop(s) on the site. He then said that LexTran does prefer to stay on the outer boundary of a commercial property for safety reasons, and it does help the bus movement through an area and allows the drivers to maintain a schedule of stops. However, with their recent history, LexTran has been picking up people where there is no transit stop. He said that the applicant has agreed to provide a pedestrian walkway from the front of Sears through the parking lot over to a new bus shelter. He then said that this will provide a safe walkway connecting Fayette Mall to a shelter and will allow the buses to enter and exit the property in a more efficient way, keeping their schedules on track.

Mr. Martin said that the staff had a discussion as to whether or not this amendment should comply with the adopted Big-Box Design Guidelines. Fayette Mall was constructed before the Big-Box requirements existed; and subsequently, when Dick's Sporting Goods was constructed, that section of Fayette Mall was required to follow the adopted Big-Box Design Guidelines. He said that the staff had reviewed the Big-Box Design Guidelines and determined that when there is a single establishment larger than 80,000 square feet in size, the Big-Box Design Guidelines are to be utilized. However, this amendment is reducing the size of Sears from a Big-Box establishment to several smaller stores. He said that there is a key statement in Article 12-8 that clearly reads; "*these design guidelines are intended to provide professional designers and the Planning Commission with direction for improved development plans.*" He then said that the staff believes this amendment will be in the spirit of the Big-Box Design Guidelines because the applicant will be providing a pedestrian access and shelter for transit riders, which is an important aspect of the Big-Box Design Guidelines. He added that the staff did recommend that the applicant further meet the spirit of the guidelines by delineating the entrance with a change in the surface material, such as stamped concrete or

stone pavement, which will clearly show the new entrance into Fayette Mall. With that being said, Mr. Martin said that the staff is recommending approval of this request.

Planning Commission Question – The Chair asked if all or most of the Sears second floor will be decommissioned. Mr. Martin said that the majority of the second floor will be decommissioned, and this was a concern for the staff; so the applicant will need to show the timing and method of the decommissioning on the development plan.

The Chair said that the staff has requested that the entrance be delineated, and asked if that is covered under the one of the listed conditions. Mr. Martin replied that there is not a specific condition listed on the staff's recommendation, but it is a recommendation on the Big-Box Design Guidelines memorandum.

The Chair said that pedestrian movement to the transit stop is an issue, and the staff had mentioned that the applicant had submitted an exhibit. He asked if that exhibit was available for the Commission to review. Mr. Martin said that the staff did review the applicant's exhibit and explained that it depicted a meandering sidewalk between two parking aisles, which is not necessarily the best design due to the potential conflict with vehicles. He then said that the staff had suggested that the sidewalk be straight to allow pedestrians to move safely through the parking lot to the shelter. The Chair asked if the sidewalk would be delineated down the drive aisle. Mr. Martin said that the sidewalk would be delineated in the middle of two parking rows. The Chair asked if this site would have room for the proposed sidewalk. Mr. Martin replied yes, and said that the sidewalk would need to be designed to accomplish that goal.

Representation – Darby Turner, attorney, was present, along with Jennifer Greer, CBL, and Rory Kahly, EA Partners, representing the applicant. He said that they are in agreement with the staff's revised recommendations and requested approval. He then clarified that there will be 8,000 square feet retained for one user on the first floor that will have restricted internal access to the 2<sup>nd</sup> floor. The rest of the 2<sup>nd</sup> floor will be decommissioned. He then said that, at the Subdivision Committee meeting, they had mentioned that the decommissioning process would be done during the renovation of Sears, and it would be completed prior to any occupancy of the new stores. He explained that the decommissioning process does include the removal of the escalators and fire suppression; and the only access to the 2<sup>nd</sup> floor area would be for maintenance, safety and so forth. He added that the 2<sup>nd</sup> floor would maintain electricity, but there will be no public access provided. He indicated that they are agreeable to work with the staff concerning condition #11.

Mr. Turner said that, as for the Big-Box Design Guidelines, over half of the pictures listed in the Guidelines are of Fayette Mall, and one particular picture in the guidelines is the Sears entrance. He then said that, as the staff had mentioned, this amendment is not subject to the Big-Box Design Guidelines; but when looking at the different uses along the front of Fayette Mall, the façade is broken up and they are agreeable to clearly delineate the Mall entrance.

Mr. Turner directed the Commission's attention to the pedestrian walkway exhibit, and said that LexTran has reviewed the applicant's design; and they are very pleased with their concept. He briefly explained that the bus shelter will be located near the front of the Fayette Mall parking lot near Nicholasville Road, and the pedestrian walkway will run the length of the parking lot from the entrance of Sears to the bus shelter. He said that the pedestrian walkway design will be located between two parking rows with a grassy section on each side of the sidewalk. He then said that, with the bus shelter being located at the front, it does allow the buses to easily enter and exit Fayette Mall.

Planning Commission Questions – Mr. Penn asked if the Mall Road bus stop would be removed with the new bus shelter. Mr. Turner replied affirmatively, and said that, due to the size of the buses, LexTran does not want to come very far into the Fayette Mall property. Mr. Penn asked if there will be only one bus shelter for the entire Fayette Mall property, which would tie into the front entrance. Mr. Turner replied affirmatively.

Ms. Mundy asked if there is a reason why LexTran can not use the Macy's porch on the West Reynolds Road side. Mr. Turner said that LexTran had used that area for many years; however, it creates problems for the larger buses, as well as Macy's. He then said that, if you visualize the elements, it is a pedestrian waiting area. Ms. Mundy said that she understands LexTran does not want to come near Fayette Mall, but people will be out in the elements when walking to the shelter. Mr. Turner said that the buses coming near the Mall does present problems for both LexTran and Macy's, and this proposal is the best solution.

The Chair said that, since Fayette Mall has parking everywhere, he asked how the pedestrian walkway will be created without creating compact parking spaces. Mr. Kahly explained that, with the removal of the Sears Automotive Center, the parking lot will be realigned to create 7 series/rows, 60' wide with 18 parking spaces. He said that, with that design, they were able to pick up 21' for the pedestrian walkway.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Planning Commission Comments – The Chair said that the staff had not presented a memorandum on the Big-Box Design Guidelines, and there is not a condition listed on the staff's recommendations. He asked how the entrance will be delineated on the development plan. Mr. Sallee said that, given the exhibit presented at today's meeting, the staff will be looking for this type of information on the development plan prior to certification.

Mr. Penn said that he is concerned that one bus stop is not adequate, given the size of Fayette Mall. He requested that, as the development plan is reviewed, a 2<sup>nd</sup> bus shelter should be considered. He then said that the rear of the Mall is a long way for a person to walk from the proposed bus shelter.

Action - A motion was made by Mr. Berkley, seconded by Ms. Mundy, and carried 10-0 (Brewer absent) to approve DP 2013-73: FAYETTE MALL (AMD #12), as presented by the staff.

- e. DP 2013-19: BROOKHAVEN SUBDIVISION (AMD #10) (11/26/13)\* - located at 2434 and 2450 Nicholasville Road. (Council District 4) **(Wheat & Ladenburger)**

Note: The purpose of this amendment is to add building square footage and revise the parking. The Planning Commission originally approved this plan on March 14, 2013, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
7. Division of Waste Management's approval of refuse collection.
8. Label and dimension all internal sidewalks.
9. Denote the height (in feet) of existing and proposed buildings.
10. Denote all proposed and existing easements.
11. Clarify street cross-section information.
12. Remove cross-hatching for "new" sidewalks and depict the same as existing ones along the Rite Aid street frontage.
13. Identify existing and/or proposed dumpster and loading dock information at the rear of building.
14. Denote proposed outdoor seating in site statistics for restaurant "A."
15. Delete "optional" on parking north of new building.
16. Addition of street frontage in site statistics.
17. Revise plan to demonstrate compliance with the minimum required off-street parking.

Note: The applicant has requested a continued discussion of this plan to allow a larger athletic club facility and to eliminate the previously approved restaurant and office space from the development.

The Subdivision Committee Recommended: Approval, subject to the original conditions 1-13 & 16; and adding the following new conditions:

14. Denote as "10<sup>th</sup> Amendment" in title block.
15. Complete numbering of general notes.
17. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.

Staff Presentation – Directing the Commission's attention to a rendering of this plan, Ms. Gallt presented the final development plan for DP 2013-19: BROOKHAVEN SUBDIVISION (AMD #10), and oriented them to the location of the subject property. She said that the subject property is located in the existing shopping center at the corner of Nicholasville Road and Surfside Drive. She then said that the Planning Commission had originally approved this plan on March 14, 2013, subject to the conditions listed on today's agenda.

Ms. Gallt said that the applicant had originally proposed a retail and restaurant use in the shopping center; but since that time, the applicant has requested a continued discussion of this plan to eliminate the previously approved restaurant and office use proposed toward the rear in order to allow a larger athletic club facility, but they want to retain the retail use to be located near Nicholasville Road.

Ms. Gallt said that the Subdivision Committee had reviewed the applicant's request, and recommended approval of this plan, subject to the original conditions 1-13 & 16; and adding the following new conditions:

14. Denote as "10<sup>th</sup> Amendment" in title block.
15. Complete numbering of general notes.
17. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.

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\* - Denotes date by which Commission must either approve or disapprove request.

Ms. Gallt then said that, after the Subdivision Committee meeting, the applicant had submitted an amended development plan to the staff that removed the previously approved retail use at the corner of Nicholasville Road and Surfside Drive, and added a restaurant in that location. She added that when this development plan was originally approved, the shopping center had a surplus of parking; however, with the current amendment, the parking surplus was reduced by 20 spaces. However, this development plan still easily meets the minimum parking requirements.

Ms. Gallt said that the staff is still recommending approval of the applicant's request, subject to the original conditions 1-13 & 16; and adding the new conditions, as previously noted.

Planning Commission Questions – Mr. Penn asked if condition #17 is still required. Ms. Gallt replied affirmatively, and said that this is required for every new development; and since the use is changing, the applicant will need to verify compliance with the Capacity Assurance Program.

Mr. Penn then asked if off-street parking is being required. Ms. Gallt said that, with the revised submittal, the applicant has demonstrated compliance with the minimum off-street parking requirement.

Representation – Roger Ladenburger, Wheat & Ladenburger, was present, representing the applicant. He said that they are in agreement with the staff's revised recommendations and requested approval.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Ms. Blanton, seconded by Mr. Wilson, and carried 10-0 (Brewer absent) to approve DP 2013-19: BROOKHAVEN SUBDIVISION (AMD #10), as presented by the staff.

- V. **ZONING ITEMS** - The Zoning Committee met on Wednesday, September 5, 2013, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Carla Blanton, Patrick Brewer, Mike Cravens, and Bill Wilson. The Committee reviewed applications, and made recommendations on zoning items as noted.

**A. ZONING ORDINANCE TEXT AMENDMENT**

1. **ZOTA 2012-9: AMENDMENTS TO ARTICLES 1, 8 & 12 FOR MODIFICATIONS TO THE B-1 ZONE** – petition for a Zoning Ordinance text amendment to Articles 1, 8 and 12 to make various modifications to the B-1 zone, including the addition of several new definitions.

Referral back to the Planning Commission to reconsider regulations of rehabilitation homes and tattoo parlors.

**TATTOO PARLORS**

**ARTICLE 8: SCHEDULE OF ZONES**

**8-19 LEXINGTON CENTER BUSINESS (B-2B) ZONE**

**8-19(d) Conditional Uses**

11. Tattoo parlors.

**8-19(e) Prohibited Uses**

13. Tattoo parlors.

**REHABILITATION HOMES**

**ARTICLE 8: SCHEDULE OF ZONES**

**8-15 PROFESSIONAL OFFICE (P-1) ZONE**

**8-15(b) Principal Uses**

~~20. Assisted living facilities and rehabilitation homes, but only when more than five hundred (500) feet from a residential zone.~~

**8-15(d) Conditional Uses**

5. ~~Assisted living facilities and r~~Rehabilitation homes, when located closer than five hundred (500) feet from a residential zone.

## 8-16 NEIGHBORHOOD BUSINESS (B-1) ZONE

### 8-16(b) Principal Uses

- ~~16. Rehabilitation homes, but only when more than five hundred (500) feet from a residential zone.~~

*Re-number remaining section*

### 8-16(d) Conditional Uses

- ~~10. 11. Assisted living facilities and r~~Rehabilitation homes, but only when more than five hundred (500) feet from a residential zone.

## ARTICLE 12: PLANNED SHOPPING CENTER (B-6P) ZONE

### ~~12-512-4~~ CONDITIONAL USES

- f. ~~Assisted living facilities and r~~Rehabilitation homes, when located closer than five hundred (500) feet from a residential zone.

The Zoning Committee Recommended: **Postponement**, for the reason provided by staff.

The Staff Recommended: **Postponement**, for the following reason:

1. The staff would like the opportunity to meet with the Department of Law in order to discuss the possible implications of making rehabilitation homes a conditional use in every instance.

Staff Presentation - Ms. Wade explained that, at the request of the Lexington-Fayette Urban County Council, the Planning Commission is being asked to reconsider a portion of ZOTA 2012-9. This is a petition for a Zoning Ordinance text amendment to Articles 1, 8 and 12 to make various modifications to the B-1 zone, including the addition of several new definitions. She further explained that the Council had received the final report for this request in February 2013, after the Commission's action on January 31, 2013.

Ms. Wade directed the Commission's attention to the staff report for the requested changes to the proposed text amendment, and briefly explained the four items included in the staff exhibit packet. She said that after the Council had received the proposed text amendment in February, they had referred it to the Planning and Public Works Committee, who then discussed the proposed changes several times. In June, the Committee voted to make changes to how tattoo parlors in the B-2B (Lexington Center Business) zone and to rehabilitation homes are regulated. Ms. Wade said that rehabilitation homes were not discussed when the Planning Commission first considered this text amendment; and for that reason, the Law Department advised the Council to refer those changes back to the Planning Commission for further consideration.

Ms. Wade said that the Planning Commission had recommended that tattoo parlors be a prohibited use in the Downtown Business Center (B-2B) zones, noting that this change would apply to the general area surrounding the Rupp Arena. However, upon the Council's review; they recommended that tattoo parlors be a conditional use in the B-2B zone. The staff does not see any real significant issue with that change.

Ms. Wade then said that, as for rehabilitation homes, when the Planning Commission and the staff had reviewed the original request, no changes were made as to how rehabilitation homes were being regulated. Following the Planning and Public Works Committee's review, the Council now proposes to regulate rehabilitation homes as a conditional use in the P-1, B-1 and B-6P zones, which then have similar implications in the B-2 and B-2A zones. She then said that the current Zoning Ordinance allows rehabilitation homes to be a principal permitted use if it is located more than 500' from a residential zone. She then said that, by implementing the Council's recommendation, it would result in there being no zone where a rehabilitation home would be a principal use, with the exception of the Community Center zone in the Expansion Area, and there are only five locations where this zone could occur throughout the county.

At the request of the Council, Ms. Wade said that the staff had reviewed the proposed change for rehabilitation homes, and believes there would be an issue raised with the Federal Fair Housing Act. She then said that, also at the Council's request, the regulations for rehabilitation homes were significantly reviewed in 2004, at which time a small change to the definition was made that basically excluded any persons that falls within the definition of a person with a disability. This is regulated by KRS 100.982. At that time, the staff had also suggested the current spacing requirements that are in the Zoning Ordinance, as opposed to making rehabilitation homes a

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\* - Denotes date by which Commission must either approve or disapprove request.

conditional use within these same zones. Ms. Wade said that, in reviewing the previous case files, rehabilitation homes are of various sizes and are able to serve a large range of people. This was one reason that rehabilitation homes were suggested as a conditional use in areas that were closer to a residential area, but still a principal permitted use in other areas. She added that in general, in our community, land uses are by-right somewhere, even with restrictions, especially for the people who are at a disadvantage.

Ms. Wade said that one of the primary issues discussed a decade ago was compliance with the 1988 Federal Fair Housing Amendments Act (FHAA) and the Americans with Disabilities Act (ADA). She then said that, in reviewing the Act and researching its implications, the staff had found that those individuals who are recovering from an addiction are considered disabled, and therefore are considered a "protected class" by the FHAA and the ADA. While governments have the authority to protect the health, safety and welfare of their citizens through land use regulations, that authority has at times around the country been used to restrict the ability of individuals who have a disability to live in some communities. Ms. Wade said that there is case law that protects individuals; and it is important to state that the Fair Housing Act is intended to prohibit the application of special requirements through the land use regulations, such as conditional use permits that have the effect of limiting the ability of such individuals to live in the residence of their choice. She said that, given current case law centered around the fair housing practices, it is imperative that any ordinance changes balance a legitimate government purpose, such as protecting the general welfare or safety of children, while not excluding housing choices for our protected class of citizens. In terms of the local regulations, the definition of rehabilitation homes covers both a protected group, such as recovering addicts; and a group, such as parolee, that do not have any coverage by these federal laws. She said that, at the Council's Planning and Public Works Committee meeting in June, several Council members voiced concern about the possibility of rehabilitation homes, specifically housing parolee being located near schools for academic instruction or child care centers. She said that, at least one member opined that rehabilitation homes that house individuals who were convicted of violent crimes or sex offenses should not be allowed to live near a school or day care center because of the potential threat to young children. The staff does believe this is a legitimate government purpose for a revision to our zoning regulations.

Ms. Wade said that, since this was initially postponed by the Commission, the staff had met with the Law Department to review the suggested changes made by the Council. The staff has very serious reservations about overly restricting a class of citizens that is protected by the Fair Housing Amendment Act and the Americans with Disabilities Act. With that being said, the staff continues to recommend that there be at least some opportunity to allow a rehabilitation home as a principal permitted use in our community. Adding a 500' setback from schools for academic instruction and child care centers would be rational and logical. Ms. Wade said that there is not a specific staff recommendation for the Commission to consider because the staff believes there are several options. She then said that the Commission could consider leaving the text amendment as it is today or use the alternative text, which would still meet what is required by the Federal Fair Housing Act. She added that the staff is not comfortable with making this use a conditional use in all cases.

Planning Commission Questions – Mr. Penn asked why the staff is not comfortable in making the rehabilitation homes a conditional use. Ms. Wade said that some individuals that reside in rehabilitation homes are a protected class of citizens, and the Federal Fair Housing Act notes that if the government is going to restrict uses, then it needs to be in a less imposing manner. Mr. Penn said that the reason he prefers the rehabilitation home to be a conditional use is to inform the public in advance within a 500' notice area. He then said that he does not want someone to wake up one morning with this type of use in their area without a notification being sent out, plus this would also grant a hearing on that request. He added that he does not know how this would balance out with the Fair Housing Act, and he is not concerned with this being in any zones as long as there is a hearing involved. Mr. Penn said that the staff also said rehabilitation homes need to be a permitted use in some areas. Ms. Wade agreed that the staff is of that opinion. Mr. Penn asked what areas the staff is recommending. Ms. Wade said that the staff is recommending that it remain in its current zone, which is the Professional Office and Business zones. She then said that rehabilitation homes are already restricted in the agricultural and residential zones as a conditional use in all cases. She added that the more permissive zones are the business zones. If a rehabilitation home cannot be a principal use anywhere else, then this would be where they could be located. Mr. Penn said that a rehabilitation home is a broad term, and it covers many situations that are not all equal. Ms. Wade agreed.

Ms. Blanton said that sex offenders are already prohibited from living near schools, and asked if this type of use would be considered as an "address." Ms. Wade replied that it is and that was mentioned at the Planning and Public Works Committee meeting. She then said that Council Member Lawless had researched that issue and State law does require separation between these types of homes and schools and playgrounds, but it only applies to those persons who committed the crime after the law was enacted. The most recent law was enacted in 2008; however, if a person committed a sex offense prior to 2008, they would not fall under those restrictions, in terms of living arrangements. Ms. Blanton said that, in reviewing the alternative text, a rehabilitation home would not be a principal use in the downtown business zones. Ms. Wade said that that use is permitted in P-1 and B-1 and that regulation carried over to the B-2 zone, in terms of principal uses; and in terms of conditional uses it does not use the same language. Ms. Blanton said that the alternative text does a good job in balancing the public safety concerns along with making sure that the Commission is not eliminating rehabilitation homes from the community. She then said that we want people to be rehabilitated and to be able to reenter society.



She added that she understands what Mr. Penn is saying about the public having the right to know; but by the same token, it puts a lot of pressure on the Board of Adjustment. She said that people have the right to voice their opinions on a use, but we have to make sure that these uses are allowed within the community.

Ms. Plumlee said that she is concerned with a rehabilitation home being a principal use within a neighborhood zone and not in a downtown business zone. She then said that it seems like the word "neighborhood" has a connotation for uses that are less intense than are rehabilitation homes. Ms. Wade said that, with the distance restriction, it does currently limit the use to the larger B-1 zoned parcels or in a larger concentration of business or professional office zones. She then said that not every B-1 zone would be eligible because it would be within 500' of a residential area, it already significantly restricts that use. She added that since a lot of the B-1 properties are near or are surrounded by residential areas, such as the Romany Road and Chevy Chase areas, it would not be a principal permitted use. She said that recently the Buckhorn Drive area had requested a rehabilitation home to be permitted in the shopping center zone, and the staff was unaware of any issues with that facility. She clarified that if a rehabilitation home was a principal use in the B-1 zone, it would continue forward into the B-2 and B-2A zones. She said that however the principal use is treated in the B-1 zone carries forward to the B-2 and B-2A zones.

The Chair asked if the downtown business zone is a mixture of residential and business uses. Ms. Wade said that the uses are mixed, but the zoning is far less mixed downtown. She then said that the core of downtown is in a business zone, and this particular use is restricted from its proximity to a residential zone - not a residential use. She added that there is already one rehabilitation home located in the downtown area. This rehabilitation home is located near a residential zone, but the staff is unsure if it is within 500 feet of one.

Audience Comment – The Chair asked if anyone in the audience wished to discuss these requests. There was no response.

Motion: A motion was made by Ms. Blanton, and seconded by Mr. Cravens, and carried 10-0 (Brewer absent) to approve ZOTA 2012-9, with the alternative text for "rehabilitation home" and the amended language for "tattoo parlor."

*Note: Mr. Wilson departed the meeting at this time.*

**VI. COMMISSION ITEM** – The Chair will announce that any item a Commission member would like to present will be heard at this time.

- a. **PFR 2013-8: FAYETTE COUNTY PUBLIC SCHOOLS** – a Public Facility Review for the construction and use of a permanent band tower located at 1111 Centre Parkway (Council District 8).

**STAFF RECOMMENDATION:** The Staff finds this to be in compliance with the text, Goals and Objectives of the 2007 Comprehensive Plan, as well as one Objective of the 2012 Plan. Only one recommendation is made, which relates to public health, safety and welfare:

1. Even though the Fayette County Public School System is exempt from Zoning Ordinance requirements, it must still comply with State Building Code requirements. It is therefore recommended that any applicable permits be obtained from the Division of Building Inspection prior to commencing construction and prior to use of the band tower.

Staff Presentation – Ms. Rackers said that the next agenda item involves a Public Facility Review Public Facility Review for the construction and use of a permanent band tower for Bates Creek High School, which is located at 1111 Centre Parkway. She directed the Commission's attention to an aerial photograph of Bates Creek High School, and oriented them to the overall area and to the surrounding street system. She said that the 64-acre property is zoned Agricultural Urban (A-U) and the project area for the band tower is much smaller than the entire school property.

Ms. Rackers directed the Commission's attention to the site plan to further orient them to the proposed site, and said that Fayette County Public Schools is requesting to build a 45 square-foot (9' x 5') band tower that will be 36' tall. The band tower will be placed on a 121 square-foot concrete pad. She explained that the band tower will be in a grass space between the practice field and the main building, next to where an existing parking area is located that runs between the high school and the practice field.

Ms. Rackers said that the band tower will only be used by the high school band director and staff, and would only be used during marching band season, mid-July to early November each year. She then said that, during the marching band season, the band generally practices five or six times per week, Monday through Saturday, and their practice times are between three and six hours at a time, generally between the hours of 8:00 a.m. and 7:00 p.m. She said that there will not be any student access to the tower, and it will be locked at all times when the tower is not in use. She then said that, on occasions, there will be a videographer in the tower to record the rehearsals, but only if and when one of the two band directors is present. There will be no lights on the band tower.

Ms. Rackers said that there are no Goals, Objectives or text of the Comprehensive Plan in opposition to the construction and use of a permanent band tower at Bates Creek High School. She then said that the Land Use Element of the plan recommends that the property be used for Public Education purposes, and this applies to all Fayette County Public Schools facilities. This also applies to extra-curricular school activities as much as academics. Ms. Rackers said that the staff finds this request to be in compliance with the Goals, Objectives and text of the Comprehensive Plan, as well as the Land Use Element. She then said that the staff does recommend that any applicable permits to be obtained through the Division of Building Inspection prior to any construction and prior to the use of the band tower.

Ms. Rackers noted that Mr. Andrew Moore was present should the Commission have any questions.

Representative – Andrew Moore, EOP Architecture, was present representing the applicant, and said that they are agreeable to the staff recommendations and noted that they are scheduled for the plan review meeting for the building permit, the following Tuesday.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Mr. Drake, seconded by Ms. Plumlee, and carried 9-0 (Brewer and Wilson absent) to approve PFR 2013-8, for the reasons provided by staff.

- b. **PFR 2013-6: FAYETTE COUNTY PUBLIC SCHOOLS** – a Public Facility Review of Fayette County Public Schools' purchase of a property for a new elementary school, at 1150 Passage Mound Way (Council District 12).

**STAFF RECOMMENDATION:** The Staff finds this to be in compliance with the Goals and Objectives of the *2007 Comprehensive Plan*, as well as text, and one Objective of the *2012/2013 Comprehensive Plan*. Because the design of the school and the layout of the property have not yet been completed, it is recommended that the trail connection, which bounds the property to the immediate west (as shown on the Trail/Path Map contained in the *Greenway Master Plan* for the immediate area), be included as part of the design of the property. This will allow a recommended trail connection to be made, and will help to implement the *Expansion Area Master Plan*, as well as the *Greenway Master Plan*, both of which are adopted elements of the *2007 Comprehensive Plan*.

Staff Presentation – Ms. Rackers said that this item is for a Public Facility Review request by Fayette County Public Schools for purchase of a piece of property for a new elementary school. The new school will be located on the east side of Passage Mound Way. She directed the Commission's attention to an aerial photograph, and oriented them to the area of the proposed Elementary School site, the overall area, and to the surrounding street system. She said that the Fayette County School Board had acquired this 15-acre property, in early July of this year, for the sole purpose of building a new elementary school. She added that the proposed school site is just on the edge of and within Expansion Area 2b, and is part of what is known as the Newmarket Property.

Ms. Rackers explained that there are no Goals, Objectives or text of the *2007* or the *2013 Comprehensive Plan* in opposition to the request, and the Land Use Element recommends Expansion Area Residential. However, since schools are a principal permitted use in the Expansion Area, there is no conflict with this request. She further said that there are several 2007 Goals and Objectives, as well as text that apply to and/or support this request; and because the 2012/2013 Goals and Objectives have been streamlined to allow a more general applicability to development in Fayette County, there is only one Objective that applies to this request. Ms. Rackers said that Objective d. of Theme F, Goal 1 states: "*Collaborate with other agencies in Lexington-Fayette County to meet local standards in order to achieve compatible developments and accomplish the community's vision as articulated in Destination 2040.*" She said that, in the *Expansion Area Master Plan*, there is a statement that notes that the School Board was actively considering several new school sites in the vicinity of Expansion Areas 1, 2a, 2b and 2c. She then said that, according to that document, one or more of the school sites needs to be sufficient in size, such as 15 acres, to accommodate an elementary or middle school within the Expansion Areas, as well as meet the needs of the overall area.

Ms. Rackers added that the Community Design Element of the EAMP also states: "*Development in the Expansion Areas should be organized into a series of discrete neighborhoods and communities, which are linked to one another by greenways, trails, paths and roads.*" This statement directly applies to this property. She directed the Commission's attention to the site exhibit, and oriented them to the location of the proposed school, the greenway trail, the Brighton Rail-Trail and to the nearby residential areas. She said that there is an area shown on the exhibit that indicates the recommended trail connection from the school to the nearby neighborhood. This connection is noted in the *Expansion Area Master Plan* and it also directly applies to this site. She added that this trail would provide a good walking access from the surrounding residential properties, as well as for the properties that are on the other side of the interstate. It would also provide the opportunity for FCPS to be a participant in the implementation of the Community Design Element of the EAMP. The staff recommends that FCPS seriously consider this concept in their design of the school property.

Ms. Rackers said that the *Greenway Master Plan* is also an adopted element of the Comprehensive Plan, and that it emphasizes the importance of providing greenways and trails to allow the various modes of transportation from residential neighborhoods to destinations, such as schools, community centers, shopping areas, etc. She then said that there are two Goals and two Objectives in the *Greenway Master Plan* that provide direct support for the construction of the path during the development of a property: These include the Connectivity Goal and the Transportation Goal. Ms. Rackers said that the Connectivity Goal is to develop and implement a greenway system that can link neighborhoods to each other, as well as connect the schools, the parks, the cultural facilities and so forth. She then said that the Transportation Goal is to develop and implement a greenway system that can provide opportunities for alternative transportation modes, such as bicycling and pedestrian use.

Ms. Rackers said that FCPS goal is become a world class school system by 2020, and part of that goal includes new construction as well as the complete renovation of their existing facilities. She then said that, since 2007, there have been three new buildings constructed and there are future plans for other schools to be built in Fayette County. She added that, since the *1996 Comprehensive Plan*, an elementary school has been planned for the area - not specifically for this property, but for Expansion Area 2b; and with the FCPS purchasing this property, it will help implement that goal. Ms. Rackers said that this Public Facility Review only relates to Fayette County Public Schools' purchase of a property, but since their specific intent is to build a new elementary school on this property, a second Public Facility Review is not needed, and this request can also serve for the future construction of this school. She then said that the staff does find this request to be in compliance with the Goals and Objectives of the Comprehensive Plan, as well as the *Expansion Area Master Plan* and the *Greenway Master Plan*. The staff does recommend that the trail connection be included as part of the design of the property, which would help to implement the *Expansion Area Master Plan*, as well as the *Greenway Master Plan*, both of which are adopted elements of the *2007 Comprehensive Plan*.

Ms. Rackers indicated that staff did send the FCPS the staffs' finding, but there was no one was present representing this request to respond to it.

Planning Commission Comments – Mr. Drake asked what roadways are surrounding the property. Ms. Rackers directed the Commission's attention to the staff exhibit, and noted the location of I-75, Todds Road, Polo Club Boulevard and so forth.

Mr. Penn asked if the FCPS have purchased this property. Ms. Rackers replied affirmatively, adding the FCPS had purchased the property in July of this year.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Ms. Beatty, seconded by Ms. Plumlee, and carried 9-0 (Brewer and Wilson absent) to approve PFR 2013-6, for the reasons provided by staff.

**VII. STAFF ITEMS** – The Chair will announce that any item a Staff member would like to present would be heard at this time.

**A. UPCOMING WORK SESSION** – Mr. King reminded the Commission members of the upcoming work session scheduled for September 19, 2013.

**B. 2013 COMPREHENSIVE PLAN** – Mr. King reminded the Commission members, as well as the community, of the 2<sup>nd</sup> public input meeting on the *2013 Comprehensive Plan*. He added that this meeting will be held on September 12<sup>th</sup> at the Village Branch Lexington Public Library, located at 2185 Versailles Road. He noted that the meeting will begin at 7:00 p.m. Mr. King said that there was a good turnout at the last meeting, and they are hoping for another good turnout. The Chair said that everyone is welcome to attend the meeting.

**VIII. AUDIENCE ITEMS** – No such items were presented.

**IX. NEXT MEETING DATES**

Work Session, Thursday, 1:30 p.m., 2 <sup>nd</sup> Floor Council Chambers .....	September 19, 2013
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building) .....	September 25, 2013
<b>Zoning Items Public Hearing</b> , Thursday, 1:30 p.m., 2 <sup>nd</sup> Floor Council Chambers .....	<b>September 26, 2013</b>
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building) .....	October 3, 2013
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building) .....	October 3, 2013
<b>Subdivision Items Public Meeting</b> , Thursday, 1:30 p.m., 2 <sup>nd</sup> Floor Council Chambers .....	<b>October 10, 2013</b>

**X. ADJOURNMENT** - There being no further business, a motion was made to adjourn the meeting at 4:20 PM.

Mike Owens, Chair

Carla Blanton, Secretary

\* - Denotes date by which Commission must either approve or disapprove request.